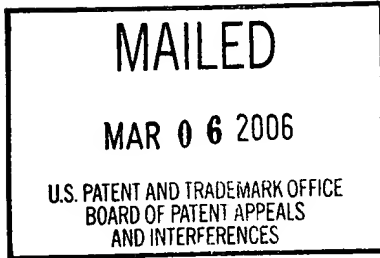


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DEBORAH MARIE COCCARO,
JOHN MICHAEL PAULOVICH and EDWARD JOHN GIBLIN

Application No. 09/955,894

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on January 26, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

- 1) On October 21, 2005, an Examiner's Answer was mailed. The information contained therein pertaining to the appeals conference is not in compliance with the Manual of Patent Examining Procedure (MPEP) § 1207.01 (8th ed., Rev. 3, August 2005). The MPEP states in part:

On the examiner's answer, below the primary examiner's signature, the word "Conferee should be included, followed by the typed or printed names of the other **two appeal conference participants**. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held. (Emphasis added)

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This examiner's answer contains the name of only one conferee who has signed twice. A second conferee different from the first is needed. Correction is required.

2) Also, the Examiner's Answer mailed October 21, 2005 does list the prior art of record being relied upon in the rejections. Pages 2-3 of the answer contains a section titled "**(8) Evidence Relied Upon**" that states "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal". The Manual Of Patent Examining Procedure (MPEP) § 1207.02(A) (8th ed., Rev. 3, August 2005) defines the above heading as follows:

(8) Evidence Relied Upon. A listing of the evidence relied on(e-g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

The examiner's § 103(a) rejections are based on a number of prior art patents, i.e., U.S. Patent No. 6,578,763 (Brown) and JP 11185164A (Maniwa et al.), etc. All of the references relied upon, as well as any other evidence relied upon by the examiner in the rejection of the appealed claims should be (have been) listed in the "**(8) Evidence Relied Upon**" section of the examiner's answer. Correction is required.

Accordingly, it is

ORDERED that the application is being returned to the Examiner for the examiner to submit a Revised Examiner's Answer:

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- (a) correcting the conferee deficiency noted above,
- (b) listing the prior art of record relied upon in the rejection(s) of the appealed claims under the heading "**Evidence Relied Upon**",
- (b) for the Examiner to mail a copy of the corrected answer to appellants, and
- (c) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



CRAIG FEINBERG
Program and Resource Administrator
(571) 272-9797

cc: UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE
BLDG C2 SOUTH
ENGLEWOOD CLIFFS , NJ 07632-3100

CF/vsh